

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JACKSON

LAURIE LOUISE JEANDIN, Personal
Representative for the **ESTATE OF BETTY
LOUISE WIGHT**, deceased,

Plaintiff,

VS.

CARE CENTER (LINDA VISTA) INC., a Domestic Business Corporation, doing business as **LINDA VISTA NURSING & REHAB CENTER**, an Assumed Business Name, **LINDA VISTA NURSING & REHAB**, an Assumed Business Name, and **LINDA VISTA CARE CENTER**, an Assumed Business Name, **PRESTIGE SENIOR LIVING, LLC**, a Domestic Limited Liability Company, **PRESTIGE CARE, INC.**, a Foreign Business Corporation, and **JOHN SPAUN, PHYLIS J. BARTRON** and **DAVID HAMRIN**, Individuals,

Defendants.

Case No.

COMPLAINT

(Survival Action: Negligence against all Defendants, Personal Injury; Abuse of Vulnerable Person Action against Defendants Spaun, Bartron and Hamrin – for claim not to exceed \$18,000,000.00)

Filing Fee: \$1,111.00 (ORS 21.160(1)(e))

CLAIM NOT SUBJECT TO MANDATORY ARBITRATION

DEMAND FOR JURY TRIAL

COMMON ALLEGATIONS

Plaintiff, Laurie Louise Jeandin, in her capacity as Personal Representative of the Estate of Betty Louise Wight, alleges:

1.

Due to the amount prayed for herein this claim is not subject to mandatory arbitration.

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2.

Laurie Jeandin is the duly-appointed Personal Representative of the Estate of Betty Louise Wight, deceased in Jackson County Circuit Court probate no. 18PB06431. Decedent was a resident of Jackson County, Oregon, at the time of her death.

3.

At all relevant times, defendant Care Center (Linda Vista) Inc., was a domestic business corporation, organized and existing under the laws of the State of Oregon with its principal place of business located in Ashland, Oregon, operating a for profit business and doing business under the assumed business names of Linda Vista Nursing & Rehab Center, Linda Vista Nursing & Rehab, and Linda Vista Care Center.

4.

At all relevant times, defendant Prestige Senior Living LLC, was a domestic limited liability company, organized and existing under the laws of the State of Oregon with its principal place of business located in Vancouver, Washington, and operating a for profit business.

5.

At all relevant times, defendant Prestige Care, Inc. was a foreign business corporation, organized and existing under the laws of the state of Washington with its principal place of business located in Vancouver, Washington, and operating a for profit business.

6.

At all relevant times, defendants Prestige Senior Living LLC and Prestige Care, Inc. were in partnership with, and/or provided management services to, defendant Care Center (Linda Vista) Inc.

7.

At all relevant times, the defendants described above (hereinafter “nursing home defendants”) owned, operated, managed, maintained, and controlled a *Nursing Facility* as

1 defined in OAR 411-085-0005(49), under the assumed business names of Linda Vista Nursing &
2 Rehab Center, Linda Vista Nursing & Rehab and Linda Vista Care center (hereinafter “Linda
3 Vista”), located at 135 Maple Street, Ashland, Jackson County, Oregon, in which it rendered
4 care to persons suffering from various ailments and infirmities caused by physical injury,
5 memory issues, and/or advanced age, and in which it provided nursing care, physical therapy,
6 rooms, facilities, care, medication, and other services for the care and maintenance of its
7 residents.

8.

At all relevant times, the nursing home defendants had working at Linda Vista officers, employees, agents, a *Nursing Facility Administrator* as defined in OAR 411-085-0005(50), *Nursing Staff* as defined in OAR 411-085-0005(53), *Nursing Assistants* (as defined in OAR 411-085-0005(47), and/or others within the control or right to control of defendants (hereinafter "facility staff"). At all relevant times, said persons were operating within the course and scope of their employment, agency, or duties over which defendant had control, or the right of control.

9.

16 At all relevant times, the nursing home defendants, by and through their staff, were under
17 a duty to provide trained personnel and adequate facilities for the care of decedent in accordance
18 with the accepted standards of prevailing nursing home practices, Volume 42, Code of Federal
19 Regulations, Part 483 setting forth Medicare and Medicaid Requirements for Long Term
20 Facilities (“OBRA Regulations”), Oregon Revised Statutes (“ORS”), and the Oregon
21 Administrative Rules (“OAR”).

10.

At all relevant times, defendant John Spaun, defendant Phylis J. Bartron, RN, and defendant David Hamrin, LPN, were employee agents who were acting within the scope and

course of their agency with defendant Prestige Senior Living LLC, defendant Prestige Care, Inc., and/or defendant Linda Vista.

11.

At all relevant times, on information and belief, defendant John Spaun was the Facility Administrator of Linda Vista. Defendant Spaun was responsible for ensuring that Linda Vista complied with all applicable state and federal regulations, including the obligations to investigate, report and document all instances of resident abuse and neglect that led to resident harm. Defendant Spaun's responsibility specifically included ensuring a safe medication administration system.

12.

At all relevant times, defendant Phylis J. Bartron was the Director of Nursing Services at Linda Vista. Defendant Bartron was subject to the Oregon state laws and regulations governing nursing practices. Defendant Bartron was responsible for investigating and documenting all instances of resident abuse, including failure to provide basic care and services to residents where the failure resulted in physical harm, unreasonable discomfort, or loss of dignity. Defendant Batron's responsibility specifically included ensuring a safe medication administration system.

13.

At all relevant times, defendant David Hamrin worked at Linda Vista as a licensed practical nurse with the responsibility of providing direct bedside and routine care to residents under the supervision of the Director of Nursing and the Facility Administrator. One of defendant Hamrin's responsibilities was to ensure proper administration of medications to residents.

14.

At all relevant times Betty Wight was a vulnerable person with mental and physical limitations that made her depend upon the protection, care and services of those persons working at the facility. Betty Wight was a member of the class of persons meant to be protected by ORS 163.205. Her injuries as alleged below are of the type for which the protections of ORS 163.205 were enacted.

15.

On or about December 10, 2013, Betty Wight became a Resident of Linda Vista, as defined in OAR 411-085-0005(67). She was 81 years old. At the time of Mrs. Wight's admission, her physical condition and the accompanying health risks were made known to the staff of Linda Vista. Defendant's staff documented that Mrs. Wight suffered from chronic pain as a result of her diagnoses of Parkinson's disease and rheumatoid arthritis, and suffered from obsessive-compulsive disorder. Accordingly, as of 2017 she was prescribed the prescription pain medications Methadone 2.5 mg daily at bedtime, Norco one 5-325 tablet four times per day, and the anti-anxiety medication Ativan 0.5 mg twice a day and PRN (as needed).

16.

On April 24, 2017 at approximately 9:00 p.m., plaintiff was advised by her brother that Betty Wight did not sound coherent while he was speaking with her on the phone. Plaintiff went to Linda Vista and found Mrs. Wight seated in a chair, incoherent and drooling into a towel that had been placed over her blouse. She had urinated in her clothing. Plaintiff requested that Mrs. Wight be immediately transported to the hospital for treatment. Defendant Hamrin advised plaintiff that this was Mrs. Wight's "baseline" and treatment was unnecessary. Plaintiff insisted and Mrs. Wight was taken by ambulance to the Rogue Regional Medical Center Emergency Department.

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17.

On arrival at the emergency department, Betty Wight was diagnosed with toxic encephalopathy due to being administered medications more frequently than usual. A lab test of her urine was positive for opiates (Norco) but negative for both Methadone and Ativan. Linda Vista's medication administration records for April 2017 however, document that Mrs. Wight was administered all of her daily Methadone doses as prescribed, and all of her daily Ativan doses as prescribed, plus 14 additional doses of Ativan PRN.

18.

During Betty Wight's treatment in the emergency department, hospital staff discovered that the front of her bra was black with mold, her toenails had not been cared for and were covered in fungus, she had developed Stage II pressure ulcers on her buttocks and coccyx, and she had a yeast infection in the folds of her abdomen. Linda Vista's records document that Mrs. Wight had not been given a bath or shower for 7 days prior to her admission to the hospital.

19.

Betty Wight remained in the hospital from April 24 through April 28, 2017. She was given IV fluids and the symptoms of toxic encephalopathy resolved.

20.

On April 28, 2017, Mrs. Wight was discharged back to Linda Vista with new physician orders for Methadone 2.5 mg by mouth nightly, and Ativan .25 mg two times daily. Her prescription for Norco was discontinued. Despite the new orders, on her return to Linda Vista Mrs. Wight was administered none of the prescribed Methadone and her condition declined. Facility records reflect that between April 28, 2017 and May 14, 2017, Mrs. Wight complained of constant pain, calling out frequently for help, and was observed grimacing and moaning. Mrs. Wight died on May 15, 2017.

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21.

On May 16, 2017, plaintiff returned to Linda Vista to retrieve Betty Wight's belongings and personal effects. A gold and sapphire ring was not returned, and Mrs. Wight's wheelchair could not be located for return.

22.

On or about February 8, 2018, defendant Hamrin admitted to a DHS investigator that he had been stealing medication from a significant number of residents of Linda Vista, including Betty Wight.

23.

In December 2018, defendant Hamrin was indicted by a Jackson County Grand Jury on charges of criminal mistreatment in the first degree, falsifying business records, and theft in the second degree, all related to the theft of medications from residents of Linda Vista, specifically including Betty Wight.

FIRST CLAIM FOR RELIEF

(AGAINST THE NURSING HOME DEFENDANTS FOR PERSONAL INJURY)

24.

Plaintiff realleges and incorporates paragraphs 1-23.

25.

The nursing home defendants, by and through their staff, were negligent in the care of Betty Wight in one or more of the following ways:

- (a) In failing to follow the physician's orders regarding the prescribed dosages of the medications Methadone and Ativan;
 - (b) In failing to maintain an accurate Medication Administration Record;
 - (c) In failing to maintain an adequate, safe and secure medication system to account for all medications;

- 1 (d) In failing to adequately supervise employees to prevent the theft of residents' medications
 - 2 and misappropriation of Mrs. Wight's personal property;
 - 3 (e) In failing to properly assess a change in Mrs. Wight's condition on April 24, 2017;
 - 4 (f) In failing to notify the physician of a change in Mrs. Wight's condition on April 24,
 - 5 2017;
 - 6 (g) In failing to notify Mrs. Wight's family of the change in her condition on April 24, 2017;
 - 7 (h) In failing to provide the necessary care and services for Mrs. Wight's hygiene and
 - 8 personal care;
 - 9 (i) In failing to provide necessary care and services to prevent the development of pressure
 - 10 ulcers;
 - 11 (j) In failing to provide necessary care and services to prevent the development of skin
 - 12 infection; and
 - 13 (k) In failing to ensure a system was in place to keep Mrs. Wight's personal property safe
 - 14 from misappropriation.

26.

16 As companies in the business of providing nursing home services, the nursing home
17 defendants knew, or in the exercise of reasonable care should have known, that the foregoing
18 negligent acts or omissions would foreseeably create an unreasonable risk of harm to residents in
19 their care, including Betty Wight.

27.

21 As a result of the acts or omissions of the nursing home defendants, Betty Wight was
22 diagnosed with toxic encephalopathy as alleged in paragraph 17, suffered the skin issues alleged
23 in paragraph 18, and, up to the time of her death following her return to Linda Vista, was not
24 provided with her prescribed medications for pain control. These conditions resulted in severe
25 and extended suffering, pain, emotional distress, humiliation and loss of enjoyment of life, all to

1 her non-economic damages in an amount determined by a jury to be fair and reasonable, but not
2 to exceed the sum of **\$1,500,000.**

28.

4 Plaintiff is entitled to her reasonable attorney fees pursuant to ORS 30.075(2).

SECOND CLAIM FOR RELIEF

(AGAINST JOHN SPAUN FOR PERSONAL INJURY)

29.

8 Plaintiff realleges and incorporates paragraphs 1 – 23.

30.

10 Defendant Spaun was negligent in one or more of the following ways:

- (a) In failing to adequately supervise administrative and/or managerial staff with regard to maintaining an adequate, safe and secure medication system to account for all medications, including those prescribed to Betty Wight;
 - (b) In failing to adequately supervise administrative and/or managerial staff to ensure a system was in place to keep residents' personal property safe from misappropriation, including that of Betty Wight;
 - (c) In failing to adequately supervise employees to prevent the theft of residents' medications and misappropriation of residents' personal property, including that of Betty Wight;
 - (d) In failing to adequately supervise employees in regard to proper assessment of residents' change in condition, including Betty Wight;
 - (e) In failing to adequately supervise employees in regard to notification of residents' family of a resident's change in condition, including Betty Wight;
 - (f) In failing to adequately supervise employees in regard to notification of residents' physicians of a resident's change in condition, including Betty Wight;

- (g) In failing to adequately supervise employees in regard to providing the necessary care and services for residents' hygiene and personal care, including Betty Wight;
 - (h) In failing to adequately supervise employees in regard to providing necessary care and services for residents, including Betty Wight, to prevent the development of pressure ulcers; and
 - (i) In failing to adequately supervise employees in regard to providing necessary care and services for residents, including Betty Wight, to prevent the development of skin infection.

31.

10 Defendant Spaun was the defendant nursing homes' Facility Administrator for Linda
11 Vista whose responsibility included compliance with state laws and regulations and the
12 safeguarding of the health and safety of the residents of Linda Vista. Defendant Spaun knew or,
13 in the exercise of reasonable care, should have known that the described negligent acts or
14 omissions would foreseeably create an unreasonable risk of harm to residents, including Betty
15 Wight.

32.

17 As a result of the acts or omissions of defendant Spaun, Betty Wight was diagnosed with
18 toxic encephalopathy as alleged in paragraph 17, suffered the skin issues alleged in paragraph 18,
19 and, up to the time of her death following her return to Linda Vista, was not provided with her
20 prescribed medications for pain control. These conditions resulted in severe and extended
21 suffering, pain, emotional distress, humiliation and loss of enjoyment of life, all to her non-
22 economic damages in an amount determined by a jury to be fair and reasonable, but not to
23 exceed the sum of **\$1,500,000.**

33.

Plaintiff is entitled to her reasonable attorney fees pursuant to ORS 30.075(2).

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THIRD CLAIM FOR RELIEF

2 **(AGAINST JOHN SPAUN FOR ELDER ABUSE – PERSONAL INJURY)**

3 **34.**

4 Plaintiff re-alleges and incorporates paragraphs 1 – 23, and 30 – 31.

5 **35.**

6 At all times material, Betty Wight was a vulnerable person above 65 years of age.

7 **36.**

8 The actions and negligence of defendant Spaun as set forth in paragraph 31 above
9 constitute elder abuse as defined under ORS Chapter 124.

10 **37.**

11 Plaintiff is entitled to treble noneconomic damages as required by ORS 124.100(2)(b).

12 **38.**

13 Plaintiff is entitled to her reasonable attorney fees pursuant to ORS 124.100(2)(c).

14 **FOURTH CLAIM FOR RELIEF**

15 **(AGAINST PHYLIS BARTRON FOR PERSONAL INJURY)**

16 **39.**

17 Plaintiff realleges paragraphs 1 – 23.

18 **40.**

19 Defendant Bartron was negligent, reckless, and/or careless in one or more of the
20 following ways:

- 21 (a) In failing to adequately supervise staff with regard to maintaining an adequate, safe and
22 secure medication system to account for all medications, including those prescribed to
23 Betty Wight;
- 24 (b) In failing to adequately supervise staff to ensure a system was in place to keep residents'
25 personal property safe from misappropriation, including that of Betty Wight;

41.

19 Defendant Bartron was the defendant nursing homes' Director of Nursing for Linda Vista
20 whose responsibility included compliance with state laws and regulations and the safeguarding
21 of the health and safety of the residents of Linda Vista. Defendant Bartron knew or, in the
22 exercise of reasonable care, should have known that the described negligent acts or omissions
23 would foreseeably create an unreasonable risk of harm to residents, including Betty Wight.

42.

As a result of the described acts and omissions of defendant Bartron, Betty Wight was diagnosed with toxic encephalopathy as alleged in paragraph 17, suffered the skin issues alleged in paragraph 18, and, up to the time of her death following her return to Linda Vista, was not provided with her prescribed medications for pain control. These conditions resulted in severe and extended suffering, pain, emotional distress, humiliation and loss of enjoyment of life, all to her non-economic damages in an amount determined by a jury to be fair and reasonable, but not to exceed the sum of **\$1,500,000.**

43.

Plaintiff is entitled to her reasonable attorney fees pursuant to ORS 30.075(2).

FIFTH CLAIM FOR RELIEF

(AGAINST PHYLIS BARTRON FOR ELDER ABUSE – PERSONAL INJURY)

44.

Plaintiff re-alleges and incorporates paragraphs 1 – 23, and 40 – 41.

45.

At all times material, Betty Wight was a vulnerable person above 65 years of age.

46.

The acts and omissions of defendant Bartron as set forth in paragraph 42 above constitute elder abuse as defined under ORS Chapter 124.

47.

Plaintiff is entitled to treble noneconomic damages as required by ORS 124.100(2)(b).

48.

Plaintiff is entitled to her reasonable attorney fees pursuant to ORS 124.100(2)(c).

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SIXTH CLAIM FOR RELIEF
(AGAINST DAVID HAMRIN FOR PERSONAL INJURY)

49.

Plaintiff realleges and incorporates paragraphs 1 – 23.

50.

Defendant Hamrin was negligent, reckless and/or careless in one or more of the following ways:

- 8 (a) In failing to follow the physician's orders regarding the prescribed dosages of the
9 medications Methadone and Ativan;

10 (b) In failing to maintain an accurate Medication Administration Record;

11 (c) In failing to maintain an adequate, safe and secure medication system to account for all
12 medications;

13 (d) In choosing to steal medications from residents, including Betty Wight;

14 (e) In failing to properly assess a change in Mrs. Wight's condition on April 24, 2017;

15 (f) In failing to notify the physician of a change in Mrs. Wight's condition on April 24,
16 2017;

17 (g) In failing to notify Mrs. Wight's family of the change in her condition on April 24, 2017;

18 (h) In failing to provide the necessary care and services for Mrs. Wight's hygiene and
19 personal care;

20 (i) In failing to provide necessary care and services for Betty Wight to prevent the
21 development of pressure ulcers; and

22 (j) In failing to provide necessary care and services for Betty Wight to prevent the
23 development of skin infection.

11

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51.

Defendant Hamrin was one of the defendant nursing homes' licensed practical nurses whose responsibility included compliance with state laws and regulations and the safeguarding of the health and safety of the residents of Linda Vista. Defendant Hamrin knew or, in the exercise of reasonable care, should have known that the described acts or omissions would foreseeably create an unreasonable risk of harm to residents, including Betty Wight.

52.

As a result of the described acts or omissions of defendant Hamrin, Betty Wight was diagnosed with toxic encephalopathy as alleged in paragraph 17, suffered the skin issues alleged in paragraph 18, and, up to the time of her death following her return to Linda Vista, was not provided with her prescribed medications for pain control. These conditions resulted in severe and extended suffering, pain, emotional distress, humiliation and loss of enjoyment of life, all to her non-economic damages in an amount determined by a jury to be fair and reasonable, but not to exceed the sum of **\$1,500,000.**

53.

Plaintiff is entitled to her reasonable attorney fees pursuant to ORS 30.075(2).

SEVENTH CLAIM FOR RELIEF

(AGAINST DAVID HAMRIN FOR ELDER ABUSE – PERSONAL INJURY)

54.

Plaintiff re-alleges and incorporates paragraphs 1 – 23, and 50-51.

55.

At all times material, Betty Wight was a vulnerable person above 65 years of age.

56.

The acts or omissions of defendant Hamrin as set forth in paragraph 53 above constitute elder abuse as defined under ORS Chapter 124.

57.

Plaintiff is entitled to treble noneconomic damages as required by ORS 124.100(2)(b).

58.

Plaintiff is entitled to her reasonable attorney fees pursuant to ORS 124.100(2)(c).

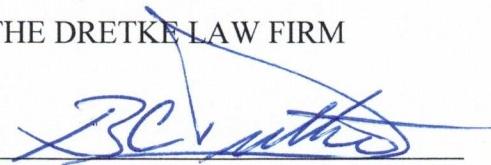
WHEREFORE, Plaintiff prays for a judgment against the defendants as follows:

1. Against the nursing home defendants for the First Claim for Relief for:
 - (a) \$1,500,000 for noneconomic damages; and
 - (b) Reasonable attorney fees, and costs and disbursements incurred herein.
 2. Against defendant John Spaun for the Second Claim for Relief for:
 - (a) \$1,500,000 for non-economic damages; and
 - (b) Reasonable attorney fees, and costs and disbursements incurred herein.
 3. Against defendant John Spaun for the Third Claim for Relief for:
 - (a) \$4,500,000, which is three times the noneconomic damages; and
 - (b) Reasonable attorney fees, and costs and disbursements incurred herein.
 4. Against defendant Phylis Bartron for the Fourth Claim for Relief for:
 - (a) \$1,500,000 for non-economic damages; and
 - (b) Reasonable attorney fees, and costs and disbursements incurred herein.
 5. Against defendant Phylis Bartron for the Fifth Claim for Relief for:
 - (a) \$4,500,000, which is three times the noneconomic damages; and
 - (b) Reasonable attorney fees, and costs and disbursements incurred herein.
 6. Against defendant David Hamrin for the Sixth Claim for Relief for:
 - (a) \$1,500,000 for non-economic damages; and
 - (b) Reasonable attorney fees, and costs and disbursements incurred herein.
 7. Against defendant David Hamrin for the Seventh Claim for Relief for:
 - (a) \$4,500,000, which is three times the noneconomic damages; and

1 (b) Reasonable attorney fees, and costs and disbursements incurred herein.

2 Dated February 1, 2019.

3 THE DRETKE LAW FIRM

4 By: 

5 Brian C. Dretke, OSB No. 931414
6 Of Attorney for Plaintiff
7 Trial Attorney: Same

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